

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

PETE WRIGHT, Register No. 166935,)	
)	
Plaintiff,)	
)	
v.)	No. 06-4201-CV-C-NKL
)	
ARTHUR WOOD, et al.,)	
)	
Defendants.)	

ORDER

On October 8, 2009, pursuant to the provisions of Rule 59(e), Federal Rules of Civil Procedure, plaintiff filed a motion to alter or amend this court's judgment of September 25, 2009. After consideration, plaintiff's motion will be denied.

On October 8, 2009, plaintiff filed a notice of appeal and on November 3, 2009, he filed a request for leave to proceed in forma pauperis on appeal. Plaintiff's notice of appeal triggers the assessment of the appellate filing fee in the amount of \$455.00, and constitutes consent for the deduction of that fee from his inmate account. 28 U.S.C. § 1915; Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997).

An appeal in forma pauperis, however, may not be taken if the court certifies, in writing, that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). The court finds plaintiff's appeal is not taken in good faith because summary judgment was properly granted.

Although the district court is denying plaintiff leave to proceed in forma pauperis on appeal, plaintiff may still seek to proceed under 28 U.S.C. § 1915, by filing with the appellate court a timely motion under Rule 24(a) of the Federal Rules of Appellate Procedure. Plaintiff also may pursue his appeal as a regular appellant, without the benefit of 28 U.S.C. § 1915, by paying the full appellate filing fee to the clerk of the district court within thirty days. If plaintiff does not file a Rule 24(a) motion or pursue his appeal as a regular appellant, his appeal may be dismissed by the appellate court.

The denial of in forma pauperis status by the district court does not relieve plaintiff of the obligation to pay the appellate filing fee. Accordingly, plaintiff's financial documentation has been reviewed and an initial filing fee has been calculated.

On October 27, 2009, plaintiff filed a motion to correct clerical errors by the court and the Office of Attorney General. Plaintiff requests docket entries No. 98, 99, 101, 102, 107, 112, 113, 116, 117, 118, 136, 137, 138, 139 and 147, filed between August 13 and September 17, 2007, be corrected "by replacing the party name of 'Oscar Johnson' to the original document name of 'Otis Johnson.'" Plaintiff states he received a copy of the court's docket sheet only on October 16, 2009, and that he was "not allowed copies of the docket data during the course of this cause." A review of the record indicates a copy of the court's docket sheet covering entries No. 79 through 151 was sent to plaintiff on September, 20, 2007. Upon consideration, it is

ORDERED that plaintiff's motion to correct is denied. [301] It is further

ORDERED that plaintiff's appeal is not taken in good faith and plaintiff is denied leave to proceed in forma pauperis on appeal. [302] It is further

ORDERED that plaintiff's motion to waive the appellate filing fee is denied and plaintiff's initial filing fee is calculated at \$1.70 and the Missouri Department of Corrections is directed to deduct from plaintiff's inmate account, and forward to the court, the initial filing fee and installment payments, in accord with the provisions of 28 U.S.C. § 1915, until the \$455.00 appellate filing fee is paid in full. [303] It is further

ORDERED that plaintiff's motion to alter or amend the judgment, is denied. [298]

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: January 21, 2010
Jefferson City, Missouri